

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
REGINALD HERBIN,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.
----- x

**NOTICE PURSUANT TO
LOCAL CIVIL RULE 12.1 TO
PRO SE LITIGANTS
OPPOSING A RULE 12
MOTION**

14-CV-3636 (SLT) (JO)

PLEASE TAKE NOTICE that defendant City of New York has moved to dismiss for judgment on the pleadings pursuant to Rule 12(b). This means that defendant has asked the Court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, **THE CLAIMS YOU ASSERT IN YOUR COMPLAINT AND AMENDED COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION** by filing sworn affidavits and other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based on personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may **NOT** oppose the defendant's motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendants and raising issues of fact for trial. Any witness statements must be in the form of affidavits. You may

submit your own affidavit and/or the affidavit of others. You may submit affidavits that were prepared specifically in response to defendants' motion.

If you do not respond to the motion on time with affidavits or documentary evidence contradicting the facts asserted by defendants, the Court may accept defendant's factual assertions as true. Judgment may then be entered in defendant's favor without a trial.

**IF YOU HAVE ANY QUESTIONS, YOU MAY DIRECT THEM TO THE
PRO SE OFFICE.**

Dated: New York, New York
May 15, 2015

ZACHARY W. CARTER
Corporation Counsel of the City of New York
Attorney for Defendant City of New York
100 Church Street, Room 3-214
New York, New York 10007
(212) 356-2383

By:


Kathryn M. Sprovieri
Assistant Corporation Counsel

To: Reginald Herbin (*by regular mail*)
Plaintiff pro se
Ulster Correctional Facility
750 Berne Road
P.O. Box 800
Napanoch, New York 12458-0800